

### **REMARKS**

The present application is subject to a restriction requirement dated March 17, 2008 between Group I claims, claims 1-7 and Group II claim 8. Applicants provisionally elect Group I claims (claims 1-7) *with* traverse.

The restriction requirement is respectfully traversed as being improperly made. Regarding the restriction requirement, the Examiner states that the invention of Group I belongs to class 705/24. The class definition of class 705/24 is as follows:

705/24     Data Processing: Financial, Business Practice,  
                 Management, or Cost/Price Determination.  
                 Automated electrical financial or business practice  
                 or management arrangement  
                 . Including point of sale or electronic cash register  
                 .. Specified transaction journal output feature (e.g.,  
                     printed receipt, voice output, etc.)

Regarding Group II, the Examiner states that the invention of Group II belongs to class 705/16. The class definition of 705/16 is as follows:

705/16     Data Processing: Financial, Business Practice,  
                 Management, or Cost/Price Determination.  
                 Automated electrical financial or business practice  
                 or management arrangement  
                 . Including point of sale or electronic cash register

There are two criteria for a proper requirement of a restriction. First, the inventors must be "independent and distinct." Second, there must be a serious burden on the Examiner if a restriction is not required. *See 35 USC §121 and MPEP §803.*

Examiners must provide reasons and/or examples supporting a restriction requirement. *MPEP §803.* A serious burden on the Examiner may be *prima facie* shown if the Examiner shows by appropriate explanation *separate* classification, or separate status in the art, or a different field of search as defined in *MPEP §808.02. Emphasis added. See MPEP §803.*

The Examiner has not proposed a classification which if assumed appropriate, would establish that the Group I and Group II claims are independent. Accordingly, the Examiner has not provided a substantive reason for the restriction requirement and has not established that examining all of the claims would be a serious burden on the Examiner.

Regarding the classifications proposed by the Examiner, it is noted that the proposed classification for the Group I claims is a subclass in relation to the proposed classification for the Group II claim. The proposed classification for Group II is class 705/16 which is the genus-parent subclass for the proposed Group I subclass 705/24. Subclass 705/24 is indented under subclass 705/16. It is respectfully asserted that a parent-child, genus-species classification relationship does not establish an "independent" relationship between groups according to guidelines under the Manual of Patent Examination Procedure (MPEP). Under the MPEP, a species-species relationship between Groups is given as an example for establishing that claim Groups are "independent." See *MPEP* § 802.01. Applicants respectfully assert that the Examiner's proposed classifications, which propose a genus-species relationship between Groups, do NOT evidence that the Groups are independent; but rather, constitutes an admission by the Examiner that the Groups are in genus-species relationship and therefore are not independent.

Further, the Examiner has not alleged that examination of all of the claims would be seriously burdensome, and has not *prima facie* established a serious burden under *MPEP* §803. It is respectfully asserted that by proposing a genus-species relationship between the Groups, the Examiner has admitted that the inventions are related to one another and not independent from one another. The Examiner's proposed classification evidences that the Groups are significantly related and that searching all of the Group would not be a serious burden.

Because the Examiner has not provided a substantive reason for the restriction requirement, and has not established that examination of all of the claims would be

seriously burdensome, withdrawal of the restriction requirement is respectfully requested. Further, a restriction requirement should be made as early as possible in prosecution. *MPEP §811*. It is believed that an attempt to “cure” the improper restriction requirement after receipt of the present response would not be proper since such an attempt to cure would not have been made “as early as possible” in prosecution.

The Examiner will note that claim 7 has been amended to address a minor informality. In that the amendment to claim 7 does not alter the scope of the claim, it will not be regarded as a “narrowing” claim amendment.

For the above reasons, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Accordingly, in view of the above amendments, applicant believes all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicant’s attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicant’s representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

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Respectfully submitted,

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